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8 UNITED STATES DISTRICT COURT  
9 CENTRAL DISTRICT OF CALIFORNIA  
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11 JUSTIN CODY HARPER,

12 Plaintiff,

13 vs.

14 CITY OF REDLANDS, REDLANDS  
15 POLICE DEPARTMENT, POLICE  
16 OFFICER KOAHOU, and DOES 1  
through 10 Inclusive,

17 Defendants.  
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Case No.: CV23-00695 SSS (KK)  
Judge: Hon. Sunshine Sykes

**DEFENDANTS' OPPOSITION TO  
PLAINTIFF'S MOTION IN LIMINE  
NO. 2 TO EXCLUDE POST-  
SHOOTING AGENCY FINDINGS**

**Final Pre-trial Conference**

Date: April 4, 2025  
Time: 1:00 pm  
Courtroom: 2

**Trial**

Date: April 21, 2025  
Time: 9:00 am  
Courtroom: 2

Complaint Filed: April 19, 2023

**I. INTRODUCTION**

This action stems from an officer-involved shooting that occurred on September 9, 2021 after Plaintiff, in a stolen vehicle, led Redlands Officer Koahou on a high-speed pursuit, crashed the stolen vehicle, and carjacked a second vehicle. In his Motion in Limine No. 2, Plaintiffs ask this Court to exclude (1) Any evidence, testimony, argument, or reference at trial to the District Attorney's conclusion that Officer Koahou's use of deadly force against Mr. Harper was justified, reasonable, and/or not criminal; (2) Any evidence, testimony, argument, or reference at trial to the District Attorney's decision not to press charges against Officer Koahou, including any reference (whether implicit or explicit) to the fact that the District Attorney reviewed the shooting incident; (3) Any evidence, testimony, argument, or reference at trial to the City of Redlands' findings that Officer Koahou's use of deadly force against Mr. Harper was reasonable, justified, and/or within policy. Defendants do not oppose the exclusion of categories (1) or (2).

However, category (3) is overbroad and seeks to exclude relevant and admissible evidence. The City of Redlands' findings that Officer Koahou's use of deadly force against Mr. Harper was reasonable, justified, and/or within policy are relevant because it would support the fact that Officer Koahou acted based on his training and experience and pursuant to departmental policy, and that Officer Koahou perceived an objective deadly threat from Harper's actions leading to his defensive reaction. With the appropriate instruction, the jury is capable of making a determination based on the facts and the evidence presented, and not based solely on the findings of the law enforcement agency. Thus, the evidence is more probative than it is prejudicial. Accordingly, Defendants respectfully request Plaintiff's Motion in Limine No. 2 be denied in part.

**II. EVIDENCE THAT OFFICER KOAHOU'S ACTIONS WERE  
WITHIN POLICY AND BASED ON HIS TRAINING IS RELEVANT  
AND WILL ASSIST THE JURY IN DETERMINING KEY ISSUES**

Relevancy is very broadly defined. "Evidence is relevant if (a) it has any tendency to make a fact more or less probable than it would be without the evidence; and (b) the fact is of consequence in determining the action." Fed. R. Evid. 401. District courts have broad discretion in determining whether evidence is relevant for discovery purposes. *See Survivor Media, Inc. v. Survivor Prods.*, 406 F.3d 625, 635 (9th Cir. 2005).

Harper seeks to exclude any evidence, testimony, argument, or reference to Defendant City of Redlands' findings that Officer Koahou's use of deadly force against Mr. Harper was reasonable, justified, and/or within policy. However, information regarding policies and practices of the Redlands Police Department, and the Department's findings concerning Officer Koahou's actions relating to those policies and practices, are relevant and would assist the jury in determining whether Officer Koahou's actions were objectively reasonable.

The Department's findings related to Officer Koahou's actions and their compliance with policy are particularly relevant because it would allow the jury to understand the policies that are related to the use of force and how the Department assessed Officer Koahou's use of force based on those policies. The central issue is whether Officer Koahou's actions were objectively reasonable, and the applicable policies and how Officer Koahou's actions measured up to the objective standards of their own Department are highly probative of the issue. Moreover, Harper's argument that such evidence irrelevant because such investigation happened after the disputed incident is improper because, like the jury in this matter, the Department was able to put itself in the shoes of a reasonable officer during the incident and did not make its investigation in contradiction to the *Graham* reasonableness standard.

Defendants believe that with proper instruction, evidence of findings and conclusions related to Departmental policies would benefit the jury and assist in their evaluation of the evidence. Further, any prejudicial effect can be alleviated through a proper jury instruction. *United States v. Hollis*, 490 F.3d 1149, 1153 (9th Cir. 2007); *see also Blount v. Bos. Sci. Corp.*, 2019 U.S. Dist. LEXIS 142360 at \*6 (E.D. Cal. 2019) [finding that courts should consider the risks of prejudice and jury confusion to be alleviated by utilizing cautionary jury instructions and controlling the manner in which the parties' claims and defenses are submitted to the jury for deliberation].

### **III. EVIDENCE REGARDING AGENCIES' FINDINGS AND CONCLUSIONS MAY NOT BE CONSIDERED HEARSAY**

Harper's Motion involves considerations which should not be decided in the procedural posture of their Motion in Limine and should therefore be denied. Specifically, there are some circumstances under which the conclusions and/or findings of an agency may be admissible at trial. For example, if a police practices expert cites such potential hearsay evidence as one of the bases of his expert opinions in the case, such conclusions may be admissible from that expert witness as a foundation for his opinions. *See generally* Fed. R. Evid. 702; *United States v. Lundy*, 809 F.2d 392, 395-396 (7th Cir. 1987). Similarly, if a witness (expert or otherwise) erroneously contends that Officer Koahou's conduct during the shooting was criminal or a violation of the policy of the Redlands Police Department, such conclusions by the Department. *See, e.g.,* Fed. R. Evid. 801(d), 803(6), 806, 807.

Indeed, portions of investigative reports otherwise admissible under Federal Rule of Evidence 803(8)(C) are not inadmissible merely because they state a conclusion or opinion, as long as the conclusion is based upon factual investigation and satisfies the Rules' trustworthiness requirements. *See Beech Aircraft Corp. v.*

1 *Rainey*, 488 U.S. 153, 169 (1988). Thus, Harper's blanket request for exclusion is  
2 improper and should be denied. *Sperberg v. The Goodyear Tire and Rubber CO.*,  
3 519 F.2d 708, 712 (6th Cir. 1975); *Wilkins v. Kmart Corp.*, 487 F.Supp.2d 1216,  
4 1218 (D. Kan. 2007) [the court "is almost always better situated during the actual  
5 trial to assess the value and utility of the evidence].

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7 **IV. CONCLUSION**

8 For all of the foregoing reasons, Defendants respectfully request the Court  
9 deny Plaintiffs' Motion in Limine No. 2, in part.

10 Dated: March 20, 2025

11 Respectfully Submitted,  
12 JONES MAYER

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19 Redlands and Officer Koahou  
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